
ZONING ORDINANCE
BOROUGH OF
BOWMANSTOWN

CARBON COUNTY, PENNSYLVANIA

Adopted by Bowmanstown Borough Council on February 5, 2019

THIS ORDINANCE WAS PREPARED
UNDER THE DIRECTION OF THE FOLLOWING
BOROUGH OF BOWMANSTOWN
OFFICIALS
2019

Borough Council

Kara Scott, President
Pam Leiby, Vice-President
Robert Moyer
William Ravert
Norman Engle, Jr.
Darren Thomas
Barbara Eastland

Borough Secretary

Tracy L Burbage

Borough Engineer

Jessica B Rehrig, PE

Planning Commission

Wayne Engle, Chairman
Robert Moyer, Vice-Chairman
Robert Sheckler
Linda Hartranft

Borough Solicitor

Attorney James Preston
Broughal & DeVito, LLC

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USING THIS ORDINANCE: AN OVERVIEW

These two pages describe the most efficient way to use this Ordinance. These pages are general descriptions, but are not part of the actual Ordinance.

Start by using the following parts of the Zoning Ordinance:

- Turn to the **Table of Contents** and the **Index** (at the end of the document) to find the pages and sections that apply to your particular situation. You may wish to photocopy the Table of Contents to highlight the relevant sections.
- Consult the **Zoning Map** at the end of this Zoning Ordinance to determine the zoning district that includes your lot.
- Turn to Section 306, the **Table of Permitted Uses By Zoning District**, which indicates the uses permitted in each zoning district. A use is permitted in two ways:
 - a) by right, or
 - b) by special exception (the Zoning Hearing Board must approve the use, as described in Section 116).
- Turn to Section 307, the **Table of Lot and Setback Requirements By Zoning District**. This table states the required minimum size of each lot and the required minimum distance that buildings must be from streets and other lot lines in each zoning district.
- Regularly refer to the **Definitions** in Section 202 to determine the meaning of specific words.

If a lot is already being legally used for a particular purpose and that use is not permitted in the zoning district according to Section 306, that use is called a "**Non-Conforming Use**". In almost all cases, a lawful Non-Conforming Use can continue, can expand within limits, can change to another use within limits, and can be sold. See Section 806 -"Non-Conformities."

Certain specific uses must comply with **additional regulations**. The "principal uses" (which are the primary use of a property) are listed in alphabetical order in Section 402 and the "accessory uses" (which are secondary uses, such as low-intensity businesses in a home) are listed in alphabetical order in Section 403. For example, additional regulations are listed for sheds, garages and other structures typically found on a residential lot under "Residential Accessory Structures" in Section 403.

If your lot may be flood-prone, see the Borough Floodplain Ordinance.

Turn to the following sections for regulations concerning parking, signs and buffer yards:

- Many uses must provide minimum numbers of off-street **Parking** spaces under Section 601 of this ordinance. The parking standards are listed in a table.
- If **Signs** are proposed within public view, Article 7 must be met. This article lists the types, heights and sizes of signs that are permitted.
- Certain uses are required to provide an open **Buffer Yard** with **Evergreen Screening** to buffer nearby homes and adjacent residentially zoned land from nuisances. See Section 803.

The following additional considerations should be kept in mind when using this Ordinance:

- An applicant may apply to the Borough **Zoning Hearing Board** for a **Zoning Variance** if he/she is not able to comply with a provision of this Zoning Ordinance. An application fee is required to compensate the Borough for legal advertisements and other costs. See Section 111, which includes the standards that must be met under State law in order to be granted a variance. Generally, under the PA. Municipalities Planning Code, variances are not permitted unless an applicant proves a legal "Hardship".
- Generally, if one or more new lots will be created, or existing lot lines will be altered, or one or more new principal non-residential buildings are proposed, then the requirements and approval procedures of the Borough **Subdivision and Land Development Ordinance** will also apply. This is a separate ordinance available at the Bowmanstown Borough office.
- If there will be significant disturbance of the ground, it will be necessary to use certain measures to control soil erosion. In such case, contact the Carbon County Conservation District.

Any questions concerning the Zoning Ordinance should be directed to the Borough's **Zoning Officer**. The Zoning Officer also administers applications for permits.

BOWMANSTOWN BOROUGH ZONING ORDINANCE

TITLE; ENACTMENT; SEVERABILITY

1. **TITLE.** A New Ordinance: a) dividing the Borough of Bowmanstown into districts with varying regulations; b) permitting, prohibiting, regulating and determining the uses of land, watercourses and other bodies of water, the size, height, bulk, location, erection, construction, repair, expansion, razing, removal and use of structures, the areas and dimensions of land and bodies of water to be occupied by uses and structures, as well as yards and other open areas to be left unoccupied; c) establishing the maximum density and intensity of uses; d) providing for the administration and enforcement of this Ordinance in accordance with the Pennsylvania Municipalities Planning Code, including provisions for special exceptions and variances to be administered by a Zoning Hearing Board; and e) establishing provisions for the protection of certain natural features.
2. **SHORT TITLE.** This Ordinance shall be known and be cited as the "Bowmanstown Borough Zoning Ordinance" of 2019.
3. **SEVERABILITY.** It is hereby declared to be the legislative intent that if a court of competent jurisdiction declares any provisions of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Ordinance shall continue to be separately and fully effective. Borough Council hereby declares that it would have passed this Ordinance and each section or part thereof, other than any part declared invalid, if it had advance knowledge that any part would be declared invalid.
4. **PROCEDURAL DEFECTS IN ENACTMENT.** Allegations that this Ordinance or any amendment was enacted in a procedurally defective manner shall be appealed as provided in State law and be filed not later than 30 days after the intended effective date of the Ordinance or amendment.
5. **REPEALER.** The pre-existing Bowmanstown Borough Zoning Ordinance, as amended, is hereby repealed, in addition to the repeal of any other Borough ordinances or resolutions or parts thereof that were adopted prior to this Ordinance that are clearly in direct conflict with this Ordinance. However, the Borough Floodplain Management Regulations, as amended and any Borough Fee Resolution shall continue in full effect.
6. **ENACTMENT.** Under the authority conferred by the Pennsylvania Municipalities Planning Code, as amended, Borough Council of Bowmanstown Borough hereby enacts and ordains into an Ordinance the attached document this date of February 5, 2019. This Ordinance shall become effective in 10 calendar days.

President, Borough Council

Attest, Borough Secretary

ARTICLE 1

ADMINISTRATION

101. APPLICABILITY OF THIS ORDINANCE. Any activity regulated by this Ordinance shall only occur in such a way that conforms with the regulations of this Ordinance. See Section 103.A.
102. PURPOSES AND COMMUNITY DEVELOPMENT OBJECTIVES. This Ordinance is hereby adopted:
- 102.A. in accordance with the requirements and purposes (including Sections 604 and 605 or their successor section(s), which are included by reference) of the Pennsylvania Municipalities Planning Code, as amended, and
- 102.B. in accordance with goals and objective of the Bowmanstown Comprehensive Plan, which are hereby included by reference.
103. PERMITS AND CERTIFICATES.
- 103.A. Applicability
1. Any of the following activities or any other activity regulated by this ordinance shall only be carried out in conformity with this Ordinance.
 - a. Erection, construction, movement, placement or extension of a structure, building or sign
 - b. Change of the type of use or expansion of the use of a structure or area of land
 - c. Creation of a lot or alteration of lot lines, and/or
 - d. Creation of a new use.
 2. Zoning Permit A Zoning Permit indicates that a zoning application complies with this Ordinance to the best knowledge of the applicable Borough Staff.
 - a. A Zoning Permit is required to be issued prior to the start of any of the following activities:
 - 1) Erection, construction, movement, placement or expansion of a structure, building or sign,
 - 2) Change of the type of use or expansion of the use of a structure or area of land,
 - 3) Creation of a new use, and/or
 - 4) Demolition of a building.
 - b. The Borough may issue combined or separate Building Permits and Zoning Permits and/or may utilize one application for both permits.
- 103.B. Repairs and Maintenance Ordinary repairs and maintenance to existing structures shall not be itself be regulated by this Ordinance.
- 103.C. Types of Uses
1. Permitted by Right Uses The Zoning Office shall issue a permit under this Ordinance in response to an application for a use that is “permitted by right” if it meets all of the requirements of this Ordinance.
 2. Special Exception Use or Application Requiring a Variance A permit under this Ordinance for a use requiring a Special Exception or Variance shall be issued by the Zoning Officer only in response to a written decision of the Zoning Hearing Board following a hearing.

103.D. Applications

1. Submittal All applications for a Zoning Permit or a decision by the Zoning Hearing Board shall be made in writing on a form provided by the Borough. Such completed application, with required fees, shall be submitted to a designated Borough staff-person.
2. Site Plan The applicant shall submit a minimum of 2 copies of a site plan with the application if the application involves a new principal building, expansion of a principal building or addition of 3 or more parking spaces. The site plan shall be drawn to scale and show the following:
 - a. locations, dimensions and uses of existing and proposed structures, parking and loading areas, and locations of existing and proposed uses of areas of land, with existing features clearly distinguished from proposed features,
 - b. notes showing the dimensions of all buildings from lot lines.
3. Additional Information Any application under this Ordinance shall include the following information, unless the Zoning Officer determines such information is unnecessary to determine compliance with this Ordinance:
 - a. the address of the lot,
 - b. name and address of the applicant, and of the owner of the property if different from the applicant,
 - c. a description of the proposed use of the property,
 - d. all other applicable information that the Zoning Officer may determine is reasonably necessary to determine compliance with this Ordinance.
4. Submittals to the Board In addition to the information listed in part “3” above, an application requiring a site plan and action by the Zoning Hearing Board shall also include the following information, unless the Zoning Officer determines that such information is unnecessary to determine compliance with this Ordinance:
 - a. the present zoning district and major applicable lot requirements,
 - b. for a non-residential use:
 - (1) a description of the proposed non-residential operations and storage in sufficient detail to indicate potential nuisances and hazards regarding noise, large truck traffic, glare, odors, dust fire or toxic or explosive hazards or other significant public health and safety hazards,
 - (2) a list of the maximum hours of operation,
 - c. a listing of any sections of this Ordinance being appealed, with the reasons for any appeal
5. Ownership No person other than a landowner or their specifically authorize agent or a tenant or lessee with written permission of the landowner shall submit a zoning application (see definition of “landowner” in Article 2).

103.E. Issuance of Permits

1. At least 1 copy of each permit application and any other zoning approval shall be retained in the Borough files.
2. PennDOT Permit. Where necessary for access onto a State Road, a Borough zoning or building permit shall be automatically condition upon issuance of a PennDOT Highway Occupancy Permit.

103.F. Revocation of Permits: Appeal of Permit or Approval

1. Revocation The Zoning Officer shall revoke, withhold, or suspend a permit or approval issued under the provisions of the Zoning Ordinance in case of one or more of the following:
 - a. any false statement or misrepresentation of fact in the application or on the plans on which the permit of approval was based (Note: The Pennsylvania Criminal Code provides for penalties for providing false information to a municipal employee in the carrying out of his/her duties).
 - b. upon violation of any condition lawfully imposed by the Zoning Hearing Board upon a special exception use or variance,
 - c. any work being accomplished or use of land or structures in such a way that does not comply with this Ordinance or an approved site plan or approved permit application, and/or
 - d. for any other just cause set forth in this Ordinance.

Appeals. A party with legitimate standing, or as otherwise provided by State law, may appeal decisions under this Ordinance within the provisions of the State Municipalities Planning Code. Any such appeal shall occur within the time period established in the State Municipalities Planning Code (As of ____, such provisions were in Sections 914.1 and 1002.A.)

103.G. Zoning Permit for Temporary Uses and Structures.

1. A Zoning Permit for a temporary use or structure may be issued by the Zoning Officer for any of the following:
 - a. Customary, routine and accessory short-term special events, provided that only a well-established nonprofit organization or a permitted place of worship proposing a temporary use to clearly primarily serve a charitable, public service or religious purpose shall be eligible to receive approval for commercial-type activities in a district where a commercial use would not otherwise be permitted;
 - b. Temporary storage and office trailers that are necessary to serve on-site construction, while such construction is actively underway;
 - c. Such other activities that the applicant proves are routine, customary and temporary.
2. Time Period. The Zoning Officer shall state a reasonable maximum time period on the temporary permit. If no time limit is stated, then a 6 month maximum period shall apply. A temporary permit may be renewed for just cause.

103.H. Compliance with Borough Subdivision and Land Development Ordinance. If an application under this Ordinance would also be regulated by the Borough Subdivision and Land Development Ordinance (“SALDO”), then any permit or approval under this Zoning Ordinance shall automatically be conditioned upon compliance with the SALDO. See the definitions of “Land Development” and “Subdivision” in the SALDO.

1. For example, if an applicant applies for a single family detached dwelling on a proposed new lot, the construction permit for such dwelling shall not be valid until after the lot is granted final subdivision approval and the lot is officially recorded by the County Recorder of Deeds.

103.I. Certificate of Occupancy.

1. It shall be unlawful for any person to use and/or occupy any structure, building, and/or land, or portions thereof, or change the use of any structure, building, and/or land, or portions thereof, in any manner, until a Certificate of Occupancy has been issued.

2. It shall be unlawful for any person to sell or otherwise transfer ownership of any structure building, and/or land, or portions thereof, to another person unless a Certificate of Occupancy has been issued prior to said transfer of ownership and any use or occupancy of such property; provided, however, that the failure on the part of such seller or transferor to obtain the Certificate of Occupancy shall not excuse the purchaser or transferee of the property from the requirements of this section.
3. The application for Certificate of Occupancy shall be submitted in such form as the Zoning Officer may prescribe.
4. After application has been made, the Zoning Officer shall inspect any structure, building, and/or land, or portions thereof, and shall determine the conformity with the building, and/or land, or portions thereof, is in conformity with all applicable Borough Ordinances and with the work listed on any zoning and/or building permit, and that the proposed use is consistent with this chapter, a Certificate of Occupancy shall be issued.
5. A Certificate of Occupancy shall be granted, or refused, within 15 days after the Zoning Officer has been notified of the completion of the authorized construction or alteration, or where no construction or alteration is involved, within 15 days after receipt of written application therefore.
6. Any Certificate of Occupancy issued hereunder may be revoked in the event that the structure, building, and/or land, or portions thereof, is determined to be unsafe or uninhabitable or that a condition exists that is in violation of any ordinances of the Borough or that the actual use is in violation of any ordinances of the Borough. In the event that such Certificate of Occupancy is issued subject to conditions, such Certificate of Occupancy may be revoked if such conditions remain unsatisfied within the time limit provided for at the time of issuance of such conditional certificate.

104. GENERAL PROCEDURE FOR PERMITS.

- 104.A. After receiving a proper application, the Zoning Officer shall either: 1) issue the applicable permits(s) or 2) deny the application(s) as submitted indicating one or more reasons.
- 104.B. After the permit under this Ordinance has been issued, the applicant may undertake the action specified by the permit, in compliance with other Borough Ordinances. However, it is recommended that applicants wait 30 days to begin construction if there is a possibility of an appeal by another party to have the permit revoked. Any commencement of construction or a use within this 30 day appeal period shall be at the risk of the applicant.

105. INTERPRETATION AND USES NOT REGULATED.

- 105.A. Minimum Requirements. Where more than one provision of this Ordinance controls a particular matter, the provision that is more restrictive upon uses and structures shall apply. The provisions of this Ordinance are in addition to any other applicable Borough Ordinance.
- 105.B. Uses Not Specifically Regulated. If a use clearly is not permitted by right, or as a special exception use by this Ordinance within any Zoning District, the use is prohibited, except that the Zoning Hearing Board may permit such use as a special exception use if the applicant specifically proves to the clear satisfaction of the Zoning Hearing Board that all of the following conditions would be met:
 1. the proposed use would be less intensive in external impacts and nuisances than uses that are permitted in the District,
 2. the proposed use would be closely similar in impacts and character to uses permitted in that District, considering the standards in Section 805.F.,
 3. the use would meet the standards that would apply under Section 116.C. to a special exception use, and
 4. the use is not specifically prohibited in that District.

- 105.C. Interpretation of Ordinance Text and Boundaries.
1. The Zoning Officer shall literally apply the wording of this Ordinance and the location of all District boundaries to particular applications. In any case, the Zoning Officer may also request an advisory opinion from the Borough Solicitor or the Zoning Hearing Board Solicitor to aid in the Zoning Officer's determination.
 2. If an applicant disagrees with the Zoning Officer's determination and believes that the Ordinance should be interpreted in the applicant's favor, the applicant may appeal to the Zoning Hearing Board. See Section 111.
- 105.D. Undefined Terms/ Interpretation of Definitions. See Section 201.
- 105.E. Interpretation of Zoning Boundaries. See Section 304.
106. ENFORCEMENT, VIOLATIONS AND PENALTIES. All of the enforcement, violations and penalty provisions of the State Municipalities Planning Code, as amended, are hereby incorporated into this Ordinance by reference. (Note – As of 1997, these provisions were primarily in Sections 616.1, 617 and 617.2 of such Act.)
- 106.A. Enforcement Notice. If the Borough has reason to believe that a violation of a provision of the Zoning Ordinance has occurred, the Borough shall initiate enforcement proceedings by sending an enforcement notice as provided in Section 616.1 of the State Municipalities Planning Code. Prior to sending an official enforcement notice, the Zoning Officer may at his/her option informally request compliance.
- 106.B. Time Limits. An official enforcement notice shall state the deadline to complete bringing the property into compliance with this Ordinance, and shall state that the applicant has 30 days from the receipt of the notice to appeal to the Zoning Hearing Board.
- 106.C. Causes of Action; Enforcement Remedies. The Causes of Action and Enforcement Remedies provisions of the State Municipalities Planning Code, as amended, are hereby incorporated by reference. (Note – As of 1997, such provisions were in Section 617 of such law.)
- 106.D. Enforcement Evidence. In any appeal of an enforcement notice to the Zoning Hearing Board, the Borough shall have the responsibility of presenting its evidence first.
- 106.E. Fee Refund. Any filing fee paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the Borough if the Zoning Hearing Board, or any court in a subsequent appeal, rules in the appealing party's favor.
107. FEES. A Borough fee schedule for permits and applications may be established and amended by written resolution of Borough Council. No application or appeal shall be considered filed until all fees are paid.
108. AMENDMENTS TO THIS ORDINANCE. Within the requirements of the State Municipalities Planning Code, Borough Council may amend, or repeal any or all portions of this Ordinance on 1) its own motion or 2) after agreeing to hear a written request of any person, entity, landowner or the Planning Commission.
109. CURATIVE AMENDMENTS. A landowner or Borough Council may utilize the “curative amendment” provisions of the State Municipalities Planning Code. (Note – As of 1997, these such provisions were in Sections 609.1, 609.2 and 916.1 of such Act.)

110. ZONING OFFICER.

- 110.A. Appointment. The Zoning Officer shall be appointed by Borough Council. The Zoning Officer shall not hold any elective office within the Borough, but may hold other appointed offices.
- 110.B. Duties and Power. The Zoning Officer's duties and powers shall include the following:
1. administer the Zoning Ordinance in accordance with its literal terms, including to receive and examine all applications required under the terms of this Ordinance, and issue or refuse permits within the provisions of this Ordinance;
 2. conduct inspections to determine compliance, and receive complaints of violation of this Ordinance;
 3. keep records of applications, permits, certificates, written decisions, and variances granted by the Board, and of enforcement orders, with all such records being the property of the Borough and being available for public inspection;
 4. review proposed subdivisions and land developments for compliance with this Ordinance; and
 5. take enforcement actions as provided by the State Municipalities Planning Code, as amended.

111. ZONING HEARING BOARD ACTIONS AND VARIANCES.

- 111.A. Membership of Board. The Zoning Hearing Board shall consist of 3 residents of the Borough appointed by Borough Council. The existing terms of office shall continue, with terms of office being 3 years, and with the terms being so fixed that the term of office of 1 member shall expire each year. Members of the Board shall hold no other office in the Borough.
1. Alternate Members. Borough Council may appoint alternate members of the Zoning Hearing Board within the applicable provisions of the State Municipalities Planning Code. (Note – As of 1997, such provisions were in Section 903(b) of such Act).
- 111.B. Vacancies. Appointments to fill vacancies shall be only for the unexpired portion of a term.
- 111.C. Organization. The applicable provisions of the State Municipalities Planning Code, as amended shall apply. (As of 1997, these provisions were in Sections 906(a), (b) and (c) of such Act).
- 111.D. Zoning Hearing Board Jurisdiction and Functions. The Zoning Hearing Board shall be responsible for the following:
1. Appeal of a Decision by the Zoning Officer.
 - a. The Board shall hear and decide appeals where it is alleged by an affected person, entity or Borough Council that the Zoning Officer has improperly acted under the requirements and procedures of this Ordinance.
 - b. See time limitations for appeals in Section 111.F.
 2. Challenge to the Validity of the Ordinance or Map. The applicable provisions of the State Municipalities Planning Code, as amended, shall apply. (Note – As of 1997, these provisions were primarily in Sections 909.1 and 916 of such Act).
 3. Variance.
 - a. The Board shall hear requests for variances filed with the Borough Staff in writing.
 - b. Standards. The Board may grant a variance only within the limitations of State law. *Note: As of 1997, the Municipalities Planning Code provided that all of the following findings must be made, where relevant:*

- i) *There are unique physical circumstances or conditions (including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property) and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or district in which the property is located;*
 - ii) *Because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and a variance is therefore necessary to enable the reasonable use of the property;*
 - iii) *Such unnecessary hardship has not been created by the appellant;*
 - iv) *The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and*
 - v) *The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.)*
- c. In granting any variances, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance.

4. Special Exception.

- a. The Board shall hear and decide requests for all special exceptions filed with the Borough Staff in writing. The Board shall only permit a special exception that is authorized by this Ordinance. See Section 116.
- b. Conditions. In granting a special exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressed in the Ordinance, as it may deem necessary to implement the purposes and intent of this Ordinance.

5. Persons With Disabilities. After the Zoning Officer receives a complete written application, the Zoning Hearing Board shall grant a special exception allowing modifications to specific requirements of this Ordinance that the applicant proves to the satisfaction of the Zoning Hearing Board are necessary to provide a “reasonable accommodation” under the Americans With Disabilities Act and/or the Federal Fair Housing Act and/or applicable State law, as amended, to serve persons who the applicant proves have “disabilities” as defined in and protected by such laws.

6. The Zoning Hearing Board shall also hear any other matters as set forth in the State Municipalities Planning Code, as amended. (Note - As of 1997, such provisions were primarily within Section 909.1 of such law.)

7. The first hearing before the board or hearing officer shall be commenced within 60 days from the date of receipt of the applicant’s application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the board or hearing officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the board or hearing officer shall assure that the applicant receives at least seven hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief. And applicant may, upon request, be granted additional hearings to complete his case-in-chief

provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.

- 111.E. Time Limits for Appeals. The applicable provisions of the State Municipalities Planning Code, as amended, shall apply. (Note – As of 1997, the provisions were in Section 914.1 of such Act.)
- 111.F. Stay of Proceedings. The Stay of Proceedings provisions of the State Municipalities Planning Code, as amended, shall apply. (Note – As of 1997, such provisions were in Section 915.1 of such Act.)
- 111.G. Time Limits on Permits and Approvals.
1. After a variance is approved or other zoning approval is officially authorized, then any applicable zoning and building permits shall be secured by the applicant within 12 months after the date of such approval or authorization. The work authorized by such permits shall then be completed within 12 months after the issuance of the permits.
 2. Extension. In response to an applicant stating good cause in writing, the Zoning Officer may extend in writing the time limit for completion of work to a maximum total of 36 months after permits are issued.
 3. If an applicant fails to obtain the necessary permits or begin construction within the above time periods, or allows interruptions in substantial construction of longer than 12 months, the Zoning Officer may conclusively presume that the applicant has waived, withdrawn or abandoned approvals and permits under this Ordinance and may consider all such approvals and permits to have become null and void.
112. BOARD HEARINGS AND DECISIONS. The following requirements shall apply to procedures, hearings and decisions of the Zoning Hearing Board.
- 112.A. Notice of Hearings. Notice of all hearings of the Board shall be given as follows:
1. Ad. Public notice shall be published, as defined by Section 107 of the State Municipalities Planning Code. The notice shall state the time and place of the hearing and the particular nature of the matter to be considered.
 2. Posting. Notice of such hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing. It is the responsibility of the applicant to make sure that such notice is posted and remains posted until the hearing.
 3. Persons Given Notice. The Borough shall provide written notice to the Applicant of the time and place of the hearing. The Borough should also provide notice to the President of Borough Council. In addition, the Borough should provide notice to the last known principal owner of record of each property that is immediately adjacent to or immediately across a street from the subject property, however, failure to provide such notice shall not be grounds for an appeal. Also, such notice shall be given to any other person or group (including civic or community organizations) who has made a written timely request for such notice. Any such notices should be mailed or delivered to the last known address.

- 112.B. Initiation of Hearings. A hearing required under this Ordinance shall be initiated within 60 days of the date of an applicant's request for a hearing, unless the applicant has agreed in writing to an extension of time.
- 112.C. Decision/Findings.
1. The Board shall render a written decision on each application within 45 days after the last hearing on that application before the Board, unless the applicant has agreed in writing to an extension of time.
 2. Where the application is contested or denied, the decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons for such conclusions.
 3. References shall be provided to the most pertinent section(s) of this Ordinance and/or the State Municipalities Planning Code.
- 112.D. Notice of Decision. A copy of the final decision shall be personally delivered or mailed to the applicant or his/her representative or their last known address not later than the time limit established by the State Municipalities Planning Code, as amended. (Note – As of 1997, these provisions were within Sections 908(9) and 908(10) of such Act, including provisions regarding notice to other parties).
- 112.E. State Law. See also Section 908 of the PA Municipalities Planning Code.
113. APPEAL TO COURT. The provisions for appeals to court that are stated in the State Municipalities Planning Code, as amended, shall apply. (Note – As of 1997, these provision were in Sections 1001-A, 1002-A, 1003-A, 1004-A, 1005-A and 1006-A of such Act.)
114. LIMITED PUBLIC UTILITY EXEMPTIONS. See the provision of the State Municipalities Planning Code, as amended. (Note – As of 1997, such provisions were within Section 619 of such Act.)
115. LIMITED BOROUGH AND MUNCIPAL AUTHORITY EXEMPTION. The minimum lot area, minimum lot width and minimum street frontage requirements of this Ordinance shall not apply to uses or structures owned by Bowmanstown Borough or by a municipal authority created solely by Bowmanstown Borough for uses and structures that are intended for a legitimate public utility, storm water or public health and safety purpose.
116. SPECIAL EXCEPTION USE PROCESS.
- 116.A. Purpose. The Special Exception Process is designated to allow careful review of uses that have some potential of conflicts with adjacent uses or areas.
- 116.B. Special Exception Procedure.
1. See submission provisions in Section 103.
 2. All Site Plans shall contain the information required in Section 103.D.
 3. The Zoning Officer should provide a review to the Board regarding the compliance of the application with this Ordinance.
 4. The Board shall follow the procedures provided in Section 112.
- 116.C. Approval of Special Exception Uses. The Zoning Hearing Board shall approve a proposed special exception use if the Board finds adequate evidence that any proposed use will comply with specific requirements of this Ordinance and all of the following standards:

1. Other Laws. Will not clearly be in conflict with other Borough Ordinances or State or Federal laws or regulations known to the Board.
2. Traffic. The applicant shall show that the use will not result in or substantially add to a significant traffic hazard or significant traffic congestion.
3. Safety. The applicant shall show that the use will not create a significant hazard to the public health and safety, such as fire, toxic or explosive hazards.
4. Storm Water Management. Will follow adequate, professionally accepted engineering methods to manage storm water.
 - (1) Storm water shall not be a criteria of a decision under this Ordinance if the application clearly would be subject to a separate engineering review and an approval of storm water management under another ordinance.
5. Neighborhood. Will not significantly negatively affect the desirable character of an existing residential neighborhood, such as causing substantial amounts of heavy truck traffic to travel through a residential neighborhood, or a significant odor or noise nuisance or very late night/early morning hours of operation.
6. Site Planning. Will involve adequate site design methods, including plant screening, berms, site layout and setbacks as needed to avoid significant negative impacts on adjacent uses.

116.D. Conditions. In granting a special exception, the Board may require such reasonable conditions and safeguards (in addition to those expressed in this Ordinance) as it determines is necessary to implement the purposes of this Ordinance. Conditions imposed by the Zoning Hearing Board shall automatically become conditions of the building permit issued pursuant thereto, and any failure to comply with said conditions shall be a violation of this ordinance.

117. LIABILITY.

- 117.A. Any review of activity within the floodplain, site plan review, subdivision or land development approval, erosion control review, wetland delineation review, storm water runoff review, review of activity on steep slopes, or any other review, approval or permit under this Ordinance by an officer, employee, board, commission, solicitor, consultant or agency of the Borough shall not constitute a representation, guarantee or warranty of any kind by the Borough, or its employees, officials, boards, solicitor(s), consultants or agencies of the practicality or safety of any structure, use or subdivision, and shall create no liability upon nor a cause of action against such entity or person for any damage that may result pursuant thereto.
- 117.B. If the Zoning Officer mistakenly issues a permit under this Ordinance, the Borough shall not be liable for any later lawful withdrawal of such permit.